

December 19, 2012

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: Universal Service Contribution Methodology; Universal Service  
Administrative Company Request for Guidance, WC Docket No. 06-122**

Dear Ms. Dortch:

On December 19, 2012, Scott Bergmann, Assistant Vice President, CTIA—The Wireless Association® (“CTIA”), met with Priscilla Delgado Argeris, Legal Advisor to Commissioner Jessica Rosenworcel to encourage the Commission to revise the current asymmetrical, one-year limit on a Universal Service Fund (USF) contributor’s ability to re-file its FCC Form 499 and obtain a refund from the USF. CTIA urged the Commission to replace the current rule with a reasonable, symmetrical deadline for revised Form 499 filings.

As CTIA has previously explained, the one-year deadline set in the *Bureau Order*<sup>1</sup> is unfair, procedurally defective, and arbitrary and capricious.<sup>2</sup> In adopting this flawed rule, the Bureau did not comply with proper procedure, by *inter alia* failing to follow a notice-and-comment process consistent with the Administrative Procedures Act. CTIA also emphasized the substantive failings of the current rule, which provides a one year limit on revised filings that would lead to downward adjustments to a filer’s contributions, while apparently providing no deadline for revisions that might increase a filer’s contribution. As CTIA has explained, this inequity and the unduly brief window for filing revisions that would lead to downward contribution adjustments render the rule arbitrary and capricious, and in violation of Section 254(d)’s requirement that contributions be “equitable.” Moreover, the rule significantly departs from analogous general tax laws, both federal and state, which lay out symmetrical limitations periods, typically two to five years.

Finally, CTIA underscored that reasonable symmetrical deadlines for filing revisions would be consistent with the Commission’s goal of providing contributors and the fund with the certainty required for decision-making and planning.

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<sup>1</sup> Federal-State Joint Board on Universal Service, Order, 20 FCC Rcd 1012 (WCB 2004) (“*Bureau Order*”). Parties have filed Applications for Review in response to the *Bureau Order*.

<sup>2</sup> Letter from Scott Bergmann, CTIA, to Marlene Dortch, Secretary, FCC, WC Docket No. 06-122 (Aug. 16, 2012).

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this letter is being electronically filed via ECFS with your office and a copy of this submission is being provided to the meeting attendees. Please direct any questions to the undersigned.

Sincerely,

*/s/ Scott K. Bergmann*

Scott K. Bergmann  
Assistant Vice President  
Regulatory Affairs  
CTIA-The Wireless Association®

cc: Priscilla Delgado Argeris